

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
MAXIIMUS PAYNE,

Plaintiff,

-against-

**NEW YORK CITY POLICE
DEPARTMENT, et al.**

Defendant.
-----X

**MEMORANDUM
AND ORDER**

08-CV-3993 (RRM)

ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

Plaintiff's motion to compel dated April 23, 2010, is granted in limited part only.

Discovery closed on February 26, 2010, and was reopened for the limited purposes identified in the Court's Minute Entry of March 17, 2010. Plaintiff's discovery demand dated March 22, 2010 is untimely and beyond the scope of reopened discovery. Plaintiff has made no attempt to establish good cause for the tardy nature of the demand. Therefore, plaintiff's motion to compel responses to that discovery demand is denied.

Plaintiff also requests that Inspector Jones be produced for a continuation of her deposition, which was conducted on April 22, 2010. Defendants respond that "any delay in the progress of the deposition lays solely at the foot of plaintiff's counsel." Letter to the Court from Cindy E. Switzer (April 27, 2010) at 3. Rather than further delay the progress of this case by deferring resolution pending receipt and review of the deposition transcript, the Court will require that Inspector Jones be produced for further deposition examination, *to be conducted telephonically*, no later than May 12, 2010. The continued deposition shall not exceed two hours. Therefore, plaintiff's counsel would be well advised to focus on the issue

of defendants' decision to terminate plaintiff -- the basis for the Court's prior order allowing Inspector Jones' belated deposition. Plaintiff's request to depose Assistant Commissioner Wechsler is denied, as plaintiff has failed to substantiate the purported need for that deposition.

CONCLUSION

Defendants shall produce Inspector Jones for a telephonic deposition not exceeding two hours in duration, to be conducted on or before May 12, 2010. Plaintiff's motion to compel is otherwise denied.

A settlement conference will be held on May 20, 2010, at 11:00 a.m. All counsel and plaintiff Payne must attend.

SO ORDERED.

**Dated: Brooklyn, New York
April 29, 2010**

**ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE**